

HOUSE BILL 3236  
By Rinks

AN ACT to amend Tennessee Code Annotated, Title 41, Chapter 8  
and Title 41, Chapter 24, relative to construction and  
operation of correctional facilities

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 41-24-102(2)(F), is amended by deleting the word "and" and substituting instead the word "or".

SECTION 2. Tennessee Code Annotated, Section 41-24-102(5), is amended by inserting after "entity" and before "entering" the following: "including other states, counties, municipalities, and private companies".

SECTION 3. Tennessee Code Annotated, Section 41-24-103(b), is amended by inserting the word "applicable" immediately before the language "requirements and procedures".

SECTION 4. Tennessee Code Annotated, Section 41-24-103, is further amended by deleting subsection (c) in its entirety and substituting instead the following:

(c) Contracts for correctional services as defined in Section 41-24-102(2)(F), are authorized for the South Central Correctional Center located in Wayne County and correctional facilities opened after July 1, 1996, except that the facility presently planned to be constructed in Lauderdale County by the department shall be operated with state employees.

SECTION 5. Tennessee Code Annotated, Section 41-24-104 is amended by deleting the language in its entirety and substituting instead the following:

Contracts for correctional services as defined in Section 41-24-102(2)(F), shall be approved by the state building commission. Proposed contracts that comply with the requirements of this chapter are to be submitted to the select oversight committee on corrections and the committee has authority to review the contracts and to provide their comments to the state building commission. Forty-five (45) days after the contract is submitted to the committee, the contract along with the comments of the committee, if any, shall be submitted to the state building commission for its review and approval.

SECTION 6. Tennessee Code Annotated, Section 41-24-105, is amended by deleting the section in its entirety and substituting instead the following:

At its discretion, the state building commission may authorize comparative studies of the performance and costs of contracting for correctional services as defined in Section 41-24-102(2)(F), versus the performance and costs of providing the services with state employees. Any studies shall be performed by independent third parties employed by the department of finance and administration. The contract shall set forth the data that is to be maintained by the contractor for the purpose of comparative studies. The department shall maintain the same data on similar facilities managed by it.

SECTION 7. Tennessee Code Annotated, Section 41-24-106, is amended by deleting the section in its entirety and substituting instead the following:

In contracting for correctional services as defined in Section 41-24-102(2)(F), the commissioner shall consider allowing contractors flexibility in the design and operation of correctional facilities to promote innovation consistent with appropriate security and sound standards. However, the commissioner shall insure that the correctional facilities are of such a quality and design that the state can assume their management and operation.

SECTION 8. Tennessee Code Annotated, Section 41-24-107, is amended by deleting the section in its entirety and substituting instead the following:

The sovereign immunity of the state shall not apply to the prison contractor, except where the contractor is a subdivision of the state.

SECTION 9. Tennessee Code Annotated, Section 41-24-109, is amended by deleting the section in its entirety and substituting instead the following:

The commissioner and the contractor shall negotiate as a term of their contract the employing and paying of an independent third party to monitor the correctional services as defined in Section 41-24-102(2)(F). The monitor shall report as requested, to the select oversight committee on corrections or any other legislative committee or the state building commission, on the performance of the contractor. The contract with the monitor shall require the same approvals as the contract for correctional services as defined in Section 41-24-102(2)(F).

SECTION 10. Tennessee Code Annotated, Section 41-24-110, is amended by deleting the section in its entirety and substituting instead the following:

The commissioner shall insure that the state retains the custody and control over its prisoners consistent with its police powers or obligations imposed by the constitution.

SECTION 11. Tennessee Code Annotated, Section 41-8-102, is amended by deleting from the first sentence the words: "nondangerous" and "locally".

SECTION 12. Tennessee Code Annotated, Section 41-8-103(10), is amended by adding at the end of the provision and before the semi-colon the following: "for the housing of locally sentenced felons".

SECTION 13. Tennessee Code Annotated, Section 41-8-104(a), is amended by adding in the second sentence after the words "provisionally certified" and before the comma the following words: "or is to be used to house inmates sentenced to the state".

SECTION 14. Tennessee Code Annotated, Section 41-8-104(a), is further amended by adding in the last sentence after the words "provisionally certified" and before the comma the following words: "or is not to be used to house inmates sentenced to the state".

SECTION 15. Tennessee Code Annotated, Section 41-8-108(a), is amended by deleting the last sentence.

SECTION 16. Tennessee Code Annotated, Section 41-8-106(c)(1), is amended by deleting from the first sentence the word "convicted" and substituting instead the words: "locally sentenced".

SECTION 17. Tennessee Code Annotated, Section 41-8-106(c)(2), is amended by adding at the end of the first sentence and before the period the following: "or of housing inmates sentenced to the state".

SECTION 18. Tennessee Code Annotated, Section 41-8-106(c)(2), is further amended by adding the following sentence at the end: "Where the state has agreed to reimburse a county for debt service on debt issued by such county in constructing a correctional facility for the purpose of housing inmates sentenced to the state, the state shall be given an option to purchase the facility".

SECTION 19. Tennessee Code Annotated, Section 41-8-106(e), is amended by deleting the words: "state prisoners" and substituting instead the words: "locally sentenced prisoners".

SECTION 20. Tennessee Code Annotated, Section 41-8-106, is further amended by adding the following subsection and relettering the subsequent subsections:

(e) On any project whereby the commissioner is proposing to reimburse a county for debt service on debt issued by such county in constructing a correctional facility to house convicted felons sentenced to the state or the county, the final approval of the contracts for the project shall be made by the state building commission. Any other law notwithstanding, no rules of the department, no certifications, and no further

approvals, shall be required for contracts with the counties for facilities to house inmates sentenced to the state. Proposed contracts that comply with the requirements of this chapter are to be submitted to the select oversight committee on corrections and the committee has authority to review the contracts and to provide their comments to the state building commission. Forty-five (45) days after the contract is submitted to the committee, the contract along with the comments of the committee, if any, shall be submitted to the state building commission for its review and approval.

SECTION 21. Tennessee Code Annotated, Section 41-8-107, is amended by adding immediately after the word "subsidy" each time it appears the following: "for locally sentenced felons".

SECTION 22. If any provisions of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 23. This act shall take effect upon becoming a law, the public welfare requiring it.

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